

## Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that bridges must operate in accordance with the needs of navigation and that this change will provide longer operating hours which were requested by mariners.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this action will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this action, if adopted, will not have a significant economic impact on a substantial number of small entities.

## Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and it has determined that this regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or

copying where indicated under "ADDRESSES".

## List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.603 is suspended and a new section 117.604 is added to read as follows:

### § 117.604 Manchester Harbor.

The Manchester Amtrak Bridge at mile 1.0, in Manchester, shall operate as follows:

(a) The draw shall open on signal from April 1 through May 31 from 9 a.m. to 1 p.m. and from 2 p.m. to 6 p.m.; from June 1 through September 30 from 9 a.m. to 1 p.m. and from 2 p.m. to 9 p.m.; from October 1 through November 1 from 9 a.m. to 1 p.m. and from 2 p.m. to 6 p.m.

(b) At all other times, at least two hours notice is required from 6:45 a.m. to 3:45 p.m. and at least five hours notice is required from 3:45 p.m. to 6:45 a.m. by calling the number posted at the bridge.

Dated: July 6, 1995.

**J.L. Linnon,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 95-17487 Filed 7-14-95; 8:45 am]

BILLING CODE 4910-14-M

## 33 CFR Part 117

[CGD01-95-092]

RIN 2115-AE47

## Drawbridge Operation Regulations; Manasquan River, NJ

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule with request for comments.

**SUMMARY:** At the request of the New Jersey Department of Transportation (NJDOT), the Coast Guard is implementing temporary regulations for the Route 35 drawbridge across the New Jersey Intracoastal Waterway (ICW), Manasquan River, mile 1.1, between Brielle and Point Pleasant Beach, New Jersey. This temporary rule will extend

the hour and half hour opening schedule on weekends and holidays from 9 a.m. to 10 p.m. It will also require that during evening rush hours Monday through Thursday, from 4 p.m. to 7 p.m. and on Fridays from noon to 7 p.m., the draw need only open 15 minutes before and 15 minutes after the hour. This temporary change to the regulations is being implemented to examine its effect on vehicular and marine traffic during the above periods. This action should still provide for the reasonable needs of navigation.

**EFFECTIVE DATES:** This temporary rule is effective on July 17, 1995 and terminates on September 4, 1995. Comments must be received on or before September 30, 1995.

**ADDRESSES:** Comments may be mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governor Island, New York, 10004-5073, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. The telephone number is (212) 668-7170. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Chief, Bridge Branch, First Coast Guard District, (212) 668-7069.

## SUPPLEMENTARY INFORMATION:

### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-95-092), the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½" by 11", suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period, and may change this proposal in light of comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (obr) First Coast Guard District at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be

beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### Drafting Information

The drafters of this notice are Mr. J. Arca, Project Officer, Bridge Branch and Lieutenant Commander Samuel R. Watkins, Project Attorney, District Legal Office.

#### Background and Purpose

Two bridges cross the Mansquan River between Brielle and Point Pleasant Beach, New Jersey. The first is the Brielle Point Pleasant (NJTRO) Bridge at mile 0.9, owned and operated by New Jersey Transit Rail Operations (NJTRO). It has a horizontal clearance of 48 feet and a vertical clearance of 3 feet as mean high water (MHW) and 6 feet at mean low water (MLW). The narrow horizontal clearance normally permits the passage of only one boat at a time through the draw in either direction. During the period Memorial Day to Labor Day, the Brielle Point Pleasant (NJTRO) bridge is normally maintained in the open position and closed 4 to 5 minutes before the arrival of a train.

The second bridge is the Route 35 bridge located at mile 1.1. It has a horizontal clearance of 90 feet and a vertical clearance of 30 feet at MHW and 33 feet at MLW. The Route 35 Bridge opens for commercial vessels, sailboats, and recreational power vessels with tuna towers and outriggers.

During the recreational boating season the daily weekday volume of marine traffic transiting through the Route 35 Bridge between 6 a.m. and 2 p.m. is greater than 200 vessels, and between 2 p.m. and 10 p.m. is more than 400 vessels. The volume of marine traffic increase on weekends. The number of daily vessel transits on weekends between 6 a.m. and 2 p.m. is greater than 600 vessels, and between 2 p.m. and 10 p.m. is more than 1000 vessels.

Train schedules limit the times vessels can transit the waterway. Monday through Friday, 14 trains cross the NJTRO bridge between 1 a.m. and 12 noon; 21 trains cross the bridge between 12 noon and 11 p.m.

Statistics provided by NJDOT show that the number of bridge openings for vessels during the past seven years remained relatively constant, averaging 2300 to 2400 openings a year. The duration of openings average approximately seven minutes. Occasional back to back bridge openings have interrupted vehicular traffic for extended periods of time. The proposed

temporary regulation was requested to evaluate the benefits and problems to both vehicular and marine traffic.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making them effective in less than 30 days after Federal Register publication. Publishing a Notice of Proposed Rulemaking and delaying the effective date of the temporary rule would be contrary to the public interest since implementation of these regulations would not permit evaluation during the prime recreational boating season when the greatest measurable impacts and benefits occur.

The current regulation provides that the draw of the Route 35 bridge, mile 1.1 (Manasquan River) at Brielle, shall open on signal, except that from Memorial Day through Labor Day on Saturdays, Sundays, and Federal holidays from 10 a.m. to 8 p.m., the draw need only open on the hour and half hour. The draw opens at all times as soon as possible for passage of public vessels used for public safety, commercial vessels and vessels in distress.

The NJDOT is also conducting a study of highway traffic patterns both north and south of the route 35 bridge to determine what additional corrective measures are needed to help reduce traffic congestion.

#### Discussion of Regulation

This temporary rule will require openings 15 minutes before and 15 minutes after the hour from 4 p.m. to 7 p.m. Monday through Thursday and 12 noon through 7 p.m. on Fridays.

It is expected that this will alleviate some vehicular traffic congestion as well as safety problems for recreational and commercial vessels that are caused when they must hold or maneuver between the Route 35 and Brielle Point Pleasant NJTRO bridge while awaiting bridge openings.

This temporary final regulation is being published to evaluate suggested changes to the drawbridge regulation during the prime recreational boating season.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040;

February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is based upon the fact that commercial vessels will not be affected by this rule and that this rule will not prevent recreational boaters from transiting the bridge. Rather it will only require them to adjust their time of arrival for openings to 15 minutes before and 15 minutes after the hour.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this action, if adopted, will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This temporary final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and it has determined that this temporary final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is temporarily amending 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.733 is temporarily amended by suspending paragraph (b) and adding a new paragraph (k) to read as follows:

### § 117.733 New Jersey Intracoastal Waterway.

\* \* \* \* \*

(k) The draw of the Route 35 bridge, mile 1.1 (Manasquan River) at Brielle, shall open on signal from July 17, 1995 through September 4, 1995, except as follows:

(1) From 9 a.m. to 10 p.m., Saturdays, Sundays and Federal holidays, the draw need only open on the hour and half hour.

(2) From 4 p.m. to 7 p.m., Mondays through Thursdays except Federal holidays, and on Fridays from 12 noon to 7 p.m. the draw need only open 15 minutes before and 15 minutes after the hour.

Dated: July 6, 1995.

**J.L. Linnon,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KS-5-1-6958a; FRL-5250-4]

### Approval and Promulgation of Implementation Plans and Section 112(l) Program for the Issuance of Federally Enforceable State Operating Permits; State of Kansas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This final action approves a revision to the State Implementation Plan (SIP) submitted by Kansas. The state's revision includes the creation of a class II operating permit program, and revisions and additions to existing SIP rules. The approval of the class II permitting program authorizes Kansas to issue Federally enforceable state operating permits addressing both criteria pollutants (regulated under section 110 of the Clean Air Act) and

hazardous air pollutants (regulated under section 112).

**DATES:** This final rule is effective September 15, 1995 unless by August 16, 1995 adverse or critical comments are received.

**ADDRESSES:** Comments may be mailed to Wayne A. Kaiser, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Wayne A. Kaiser at (913) 551-7603.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Kansas recently restructured its air program rules as a result of the need to develop a major source operating permit program consistent with the requirements of 40 CFR part 70. Consequently, the state created a three-tiered permit program: class I, class II, and class III. Class I permits will be issued to part 70 major sources, class II permits to nonmajor sources and to those willing to take Federally enforceable operating restrictions to limit their potential-to-emit to nonmajor source levels, and class III permits for all other emission sources (i.e., sources with emission levels lower than the class II cutoff levels). This SIP revision includes revisions to existing SIP rules, including the definitions rule and construction permits rules, and new rules which create general permits and class II operating permits, including permits-by-rule. These rule revisions are the result of three state rulemakings, effective in 1993, 1994, and 1995.

On February 17, 1995, the Secretary of the Kansas Department of Health and Environment (designee of the Governor) submitted the SIP revision and supporting information to the EPA Region VII Administrator. In a supplemental letter dated March 8, 1995, the state also requested that EPA approve the class II permitting rules under the authority of section 112(l) for the purpose of conferring Federally enforceable limitations on hazardous air pollutants (HAP). EPA's review and analysis of the entire state submittal is discussed below.

For a more detailed discussion, please refer to the Technical Support Document (TSD) prepared for this

document, which is available from the contact listed above.

## II. Review of State Submittal

### A. Rule Revisions

K.A.R. 28-19-7, Definitions. Over 30 definitions were revised or added. New definitions were necessary due to the adoption of the Title V permitting rules and the related class II permitting rules. Some definitions were simply moved from existing rules to the definitions rule for the purpose of consolidating all definitions in one rule. Other revisions were nonsubstantive grammatical or clarifying revisions. A detailed discussion of each revision to this rule is contained in the TSD.

K.A.R. 28-19-8, Reporting required. This regulation formerly described emission levels which triggered requirements to obtain construction and operating permits and approvals. Revisions were required to remove those provisions relating to operating permits that now appear in regulations relating specifically to the new class I and class II operating permits programs.

K.A.R. 28-19-14, -14a, -14b, pertaining to permits and fees. These were revised because most of these provisions are now contained in new rules. Rule K.A.R. 28-19-14b was revoked in the 1994 revision, and -14a was revised in 1994 and revoked in 1995.

K.A.R. 28-19-204, General provisions, permit issuance and modification; public participation. This new regulation includes general requirements for public participation in the permitting process, including construction permits and class II operating permits.

K.A.R. 28-19-212, General provisions; approved test methods and emission compliance determination procedures. This rule includes most test methods required by other rules, including adoption by reference of methods in 40 CFR parts 51, 60, 61, and 63. In 58 FR 54677 (October 22, 1993), the EPA announced that SIP calls pursuant to section 110(k)(5) of the Act would be issued in order to implement the monitoring requirements of section 114(a)(3), including the periodic monitoring requirements for operating permits pursuant to sections 502(b)(2) and 504. This SIP call is required, because existing SIPs are inadequate in that they may be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations.

On May 6, 1994, the EPA notified the Governor of Kansas that an SIP revision was necessary to meet the